

**Receipt of Confirmation
Of
Bidding and Contract Documents
For
EMULSION PRODUCTS**

All prospective Bidders who obtained the Bidding Documents electronically must fax this "Receipt of Confirmation" form no later than 8:00 AM on APRIL 5, 2016 EST to:

Jamia L. Wright, Borough Secretary, at (717) 264-0224.

The undersigned confirms receipt of all 38 pages of the bidding and contract documents dated **MARCH 9, 2016** for the project referenced above as posted electronically at www.borough.chambersburg.pa.us.

Name of Company	_____
Name of Recipient	_____
Signature of Recipient	_____
Title of Recipient	_____
Phone No:	_____
Fax No:	_____
E-mail:	_____
Date:	_____

SPECIFICATIONS AND CONTRACT DOCUMENTS

for

EMULSION PRODUCTS

for purchase by the Borough of Chambersburg

ISSUED

MARCH 9, 2016

Bids for **EMULSION PRODUCTS** as covered by these Specifications must be received by the Borough of Chambersburg before **10:00 a.m.**, legal time, **APRIL 5, 2016** at the office of the Borough Secretary, 100 South Second Street, Chambersburg, Pennsylvania 17201.

For further information:

David C. Finch
Assistant Borough Manager/Public Works Director
717-261-3200

NOTICE – SEEKING BIDS

The Borough of Chambersburg is accepting sealed bids for:

Emulsion Products

A complete proposal packet may be obtained from:

Jamia L. Wright, Borough Secretary
Borough of Chambersburg
100 South Second Street
Chambersburg, PA 17201
Phone: (717) 261-3254

The Town Council of the Borough of Chambersburg intends to award a contract to the overall lowest responsible Bidder for each item, as determined by Town Council in the best interest of the Borough of Chambersburg and reserves the right to award separate contracts for the various items included in this Bid to separate bidders.

There will no Pre-Bid Conference. Proposal and Payment Bonds are not required for this Bid or Contract. The Successful Bidder shall be required to supply a Performance Bond in the amount of fifty percent (50%) of the contract price. A non-collusion affidavit is required for this Bid.

Bids shall be submitted only on the enclosed MS-963 included in the Bidding Documents. While Bidders may make comments to clarify their bid, Bidders cannot change, modify, delete, alter, amend or make additions to the wording to any of the Bidding Documents, including but not limited to the Agreement. Unauthorized conditions, exceptions, limitations, or provisions attached to a bid may be cause for rejection of the Bid. Any questions regarding the Bidding Documents shall be submitted as Requests for Interpretation and the Bidding Documents may only be modified by Addendum issued by the Borough prior to the Bid opening date.

The Town Council of the Borough of Chambersburg reserves the rights to reject any or all Bids; to waive any defects, errors, omissions, irregularities or informalities in a Bid or the Bid procedure; and to accept any Bid which it may deem to be for or in the best interest of the Borough of Chambersburg.

Bids will be received at the above address until **10:00 AM, on APRIL 5, 2016**. Any Bid received after said date and time will be returned unopened. All Bids must be in a sealed envelope clearly marked **“Bid Proposal for the Borough of Chambersburg”**, bearing the name of the Bidder and **“Emulsion Products”**. If the Bid is sent through the mail or other delivery system, the sealed envelope shall be enclosed in a separate envelope with the notation **“BID ENCLOSED”** on the face of it. Please mail bids to Attention: Jamia L. Wright, Borough Secretary.

Bids may be taken under advisement and the award of the Contract, if awarded, will be made within sixty (60) days after the date of the opening Bids. The Town Council reserves the rights to formally accept a Bid and award a Contract by public announcement at a regular meeting of the Town Council.

The Borough of Chambersburg is an Equal Opportunity Employer. Minority and women owned business and those defined as SERB's under State regulations are encouraged to submit proposals.

INSTRUCTIONS TO BIDDERS

1. Project Overview

The Borough of Chambersburg (the "Borough") is seeking bids from qualified Bidders for the general procurement of: **Emulsion Products** (the "Goods"), for a one-year period (May 15, 2016 through May 14, 2017) as further described in the Specifications herein.

Emulsion Products, which are collectively multiple types of materials, shall either be delivered by the Contractor or the Borough may choose to pick up the Goods at the Contractor's facility.

This Bid only covers Emulsion Products procured directly by the Borough and excludes Emulsion Products procured by a general contractor for use on Borough projects.

2. Bidding Documents

The Bidding Documents include the following documents:

- Notice / Advertisement
- Instructions to Bidders
- General Terms and Conditions
- PennDOT MS-963 Form, with attachments
- Non-Discrimination Notice
- Bidder Affidavit
- Non-Collusion Affidavit
- Specifications
- Agreement
- W-9 Form
- Receipt of Confirmation of Bidding and Contract Documents
- Addenda (if released by Borough)
- Receipt of Addenda (if Addenda is released by the Borough)

3. Copies of Bidding Documents

A complete set of Bidding Documents may be obtained by the Bidder at:

Borough of Chambersburg, 100 S. Second Street, Chambersburg, PA 17201.

The Bidding Documents may also be obtained electronically at www.borough.chambersburg.pa.us. All prospective Bidders who obtained the Bidding Documents electronically must fax a "Receipt of Confirmation" form no later than 8:00 AM on APRIL 5, 2016 to Jamia Wright at (717) 264-0224.

Complete sets of the Bidding Documents shall be used in preparing the Bid. The Borough does not assume responsibility for any errors or misinterpretations resulting from the use of incomplete sets of Bidding Documents.

4. Contractor

The Successful Bidder will be known as the Contractor. The Successful Bidder to whom a contract is awarded as evidenced by the Agreement will be required to comply with all applicable federal and state laws, rules, regulations, orders and approvals, and all applicable Borough ordinances, rules and regulations. The Borough reserves the right to award separate contracts for the various items included in this Bid to separate Bidders.

5. Qualifications of Bidders

Upon the Borough's request, a Bidder may be required to provide the Borough with at least three (3) references for similar work or product with applicable contact information within five (5) calendar days after the Bid opening date. These references shall verify that the Bidder has successfully delivered or performed similar projects or commodities.

Each Bid must contain evidence of Bidder's qualification to do business in the Commonwealth of Pennsylvania, or covenant to obtain such qualification prior to and as a condition of the award of the Contract.

No Bid will be accepted from, nor will any contract be awarded to, any person who is in arrears with the Borough upon debt or contract, or who is in default as surety or otherwise, upon any obligation to said Borough or whose work has heretofore proved unsatisfactory or dilatory.

6. Interpretations and Addenda

Any questions or requests for interpretation of any provision of the Bidding Documents or Specifications shall be made to David C. Finch, Assistant Borough Manager / Public Works Director, at dfinch@chambersburgpa.gov or 717-261-3200 at least seven (7) days prior to the submission deadline.

The Borough may issue an Addendum, if deemed necessary by the Borough, to address or clarify the Bidding Documents prior to the submission deadline. Questions received after seven (7) days prior to the date for opening Bids may not be answered. Only questions answered by formal written Addenda will be binding. Oral statements, interpretations or clarifications will not be binding or legally effective. A Bidder who fails to acknowledge receipt of any such Addendum with its Bid, as documented in a "Receipt of Addenda" form will be construed as though the Addendum had been received and acknowledged.

7. Security

Bid Bonds and Payment Bonds are not required for this Bid or Agreement. The Successful Bidder (the "Contractor") shall be required to supply a Performance Bond.

- 7.1 All bonds shall be in the form prescribed by the Bidding Documents except as provided otherwise by Laws or Regulations, and shall be executed by such sureties as are named in the list of "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Circular 570 (amended) by the Financial Management Service, Surety Bond Branch, U.S. Department of the Treasury. All bonds signed by an agent or attorney-in-fact must be accompanied by a certified copy of that individual's authority to bind the surety. The evidence of authority shall show that it is effective on the date the agent or attorney-in-fact signed each bond.

If the surety on any bond furnished by Contractor is declared bankrupt or becomes insolvent or its right to do business is terminated in any state where any part of the Project is located or it ceases to meet the requirements of this Section 7, Contractor shall promptly notify the Borough and, within twenty (20) days after the event giving rise to such notification, provide another bond and surety.

The Proposal Form contains estimated quantities of each Good to be supplied. The Bidders shall use these estimated amounts for the Performance Bond security calculation.

- 7.2 Performance Bonds. When the apparent Successful Bidder delivers the signed Agreement to the Borough, it must be accompanied by the required Performance Bond on the form provided in the Bidding Documents. Substitute Bond forms are not acceptable.

Contractor shall furnish Performance Bond in an amount equal to Fifty Percent (50%) of the estimated contract price for 2016 as security for the faithful performance all of Contractor's obligations under the Contract Documents.

The Performance Bonds shall each be calculated using the following formula:

$$\text{Quantity Amount} \times \text{Bidder's bid amount per unit} \times 0.5$$

The Performance Bond must include security for each item awarded under the Contract.

This bond shall remain in effect until one (1) year after the date when final payment becomes due or until completion of the correction period, whichever is later, except as provided otherwise by applicable Law, Regulations or by the Contract Documents.

8. Proposal / PennDOT MS-963 Form

Included in these Bidding Documents is the PennDOT MS-963 Form, which contains the Deposit of Proposals, Contractor's Certification, Schedule of Prices and the Performance Bond. The Bidder may bid on one (1) or more items listed on the Schedule of Prices, which is part of the MS-963 Form, and bidding on all items is not required. Pricing will remain fixed for the term of the Agreement.

The Bidder shall provide a location of Source for the materials and mileage one way from the material Source to the Borough Garage at 342 W. Loudon Street, Chambersburg, PA 17201 along with the Proposal.

The Proposal of an individual must be signed by the Bidder and be witnessed or attested to. The Bid of a partnership must state the names of each partner and it must be signed by at least one partner. The Bid of a corporation must show the State of incorporation and must be signed by the President, Vice President, or any other employee duly authorized pursuant to a corporate resolution. Bids signed by employees other than the President or Vice President shall include a resolution demonstrating that employee is indeed authorized to act on behalf of and to bind the corporation.

The following should be considered by Bidder with Bid submission:

Tax: Pennsylvania sales tax is not to be included in the bid. Tax exemption certificate will be furnished to the Contractor. The Borough is sales tax exempt. However, the Contractor is not exempt from the obligation to follow appropriate tax laws in the procurement of materials and services used in the performance of the Contract. Bidder shall obtain legal advice to determine how and to what extent the Borough's tax exemption may be utilized by the Contractor. The Borough will provide, at the Contractor's request, documentation required to obtain applicable tax exemptions.

Shipping and Delivery: Emulsion Products shall either be delivered by the Contractor to various jobs sites within or near the Borough or the Borough may choose to receive Emulsion Products at the Contractor's facility. Goods to be picked up by the Borough are bid under column 6 "Unit Price FOB Plant" while goods to be delivered by the Contractor as bid under column 7 "Unit Price Delivered at Job Site".

All Goods must conform to the Specifications. All Goods supplied must meet all federal, state, and local standards, laws and regulations for quality and safety requirements. Goods not meeting these conditions will be deemed unacceptable and may be returned to the Contractor at no charge to the Borough.

All Goods will be furnished (delivered by the Contractor or picked up by the Borough) within the time indicated following placement of an order by the Borough for that item as included in the Specifications.

In the event the Contractor delivers the Emulsion Products

The Contractor shall deliver the Goods, select the carrier, and bear all costs of packaging, transportation, insurance, special handling, and any other cost associated with shipment and delivery. Delivery of each Good is F.O.B. (prepaid) to various destinations within the Borough of Chambersburg or within fifteen (15) miles from City Hall, 100 South Second Street, Chambersburg, PA 17201 (the "Point of Destination").

The risk of loss and insurable interests transfer from the Contractor to the Borough upon the Borough's receipt of the Goods at the Point of Destination.

The Borough reserves the right to reject Goods or items for any reason whatsoever including but not limited to those Goods or items delivered late.

The Contractor may only deliver Goods as authorized in the Agreement and only after the receipt of a purchase order or other authorized document from the Borough.

Additional Delivery requirements may be contained in the Specifications.

9. Submission of Bids

Bids shall be submitted no later than the time and place indicated in the Notice. All Bids must be in a sealed envelope clearly marked "**Bid Proposal for Borough of Chambersburg**", bearing the name of the Bidder and "**Emulsion Products**". If the Bid is sent through the mail or other delivery system, the sealed envelope shall be enclosed in a separate envelope with the notation "BID ENCLOSED" on the face of it. Please mail bids to Attention: Jamia L. Wright, Borough Secretary. The Bidder is solely responsible for delivering Bid to the Borough at the location of, and by the time of, the Bid opening designated in the Notice.

The following completed documents are to be submitted with the Bid and will become a condition of the Bid:

- PennDOT MS-963 Form **plus** location of Source for the materials and mileage one way from the material Source to the Borough Garage
- Bidder Affidavit
- Non-Collusion Affidavit
- Receipt of Addenda (if applicable)

Bidders may provide comments to clarify or describe their technical offer, **but Bidders cannot change, modify, delete, alter, amend or make additions to the wording to any of the Bidding Documents. Unauthorized conditions, exceptions, limitations, or provisions attached to the Bid may be cause for rejection of the Bid.** Any questions regarding the Bidding Documents shall be submitted as a request for interpretation and the Bidding Documents may only be modified by Addendum issued by the Borough prior to the Bid opening date.

It is the responsibility of each Bidder before submitting a Bid to:

- A. examine and carefully study the Bidding Documents, including any Addenda or Memorandum and the related data identified in the Bidding Documents;

- B. if specified, or if, in Bidder's judgment, any local condition may affect cost, progress or the furnishing of Goods, visit the Point of Destination to become familiar with the local conditions;
- C. become familiar with and satisfy Bidder as to all federal, state, and local Laws and Regulations that may affect cost, progress, or the furnishing of Goods;
- D. carefully study and correlate the information known to Bidder, and information and observations obtained from Bidder's visits, if any, to the Point of Destination, with the Bidding Documents;
- E. promptly give the Borough written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder discovers in the Bidding Documents and confirm that the written resolution thereof by the Borough is acceptable to Bidder; and
- F. determine that the Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for furnishing Goods.

In addition, the Bidder acknowledges and understands that any information received by the Borough may be subject to disclosure pursuant to the Pennsylvania Right to Know Law, 65 P.S. § 67.101 *et seq.*, and the Borough will process any and all request made pursuant to the Pennsylvania Right to Know Law in accordance with the Right to Know Law.

10. Modification and Withdrawal of Bids

Bids may be modified or withdrawn by an appropriate document duly executed (in the manner that a Bid must be executed) and delivered to the place where Bids are to be submitted at any time prior to the opening of Bids.

After the Bid opening, Bidder may withdraw its Bid only by complying with applicable Federal, State, or local laws and regulations. Unless prohibited by such applicable laws and regulations, or if there are no applicable laws and regulations, Bidder shall forfeit the entire amount of Bid security upon withdrawal of its Bid, if bid security is required.

11. Bids to Remain Subject to Acceptance

Bids shall remain open for a period of sixty (60) days from the date of Bid opening unless award is delayed by a required approval from a governmental agency, the sale of bonds or notes, or the award of a grant or grants, in which event the Bids shall remain open for a period of one hundred twenty (120) days from the date of Bid opening. The Borough will either award the Agreement within the applicable time period or reject all Bids, returning the Bid security to the Bidders. Thirty (30) day extensions of the date for the award may be made by the mutual written consent of the Borough and the apparent Successful Bidder.

12. Award of Contract

The Borough reserves the right, without limitation, to reject any or all Bids, including without limitation the rights to reject any or all nonconforming, nonresponsive, unbalanced or conditional Bids and to reject the Bid of any Bidder, if the Borough believes that it would not be in the best interest of the project to make an award to that Bidder, whether because the Bid is not responsive or the Bidder is unqualified or of doubtful financial ability or fails to meet any other pertinent standard or criteria established by the Borough. The Borough, in determining which Bid is in the best interest of the Borough, may take into consideration the mileage from the Borough to the Bidder's Location of Source. The Borough also reserves the right to waive all irregularities or informalities not involving price, time or changes in the Work and to negotiate contract terms with the Successful Bidder. Furthermore, the Borough reserves the right to award separate contracts for the various items included in this Bid to separate Bidders.

The Borough will correct discrepancies in Bidder's mathematical totals. Discrepancies in the multiplication of units of Work and unit prices will be resolved in favor of the unit prices. Discrepancies between the indicated sum of any column of figures and the correct sum thereof will be resolved in favor of the correct sum. Discrepancies between words and figures will be resolved in favor of the words.

In evaluating Bids, the Borough may conduct such investigations as the Borough deems necessary or desirable to assist in the evaluation of any Bid and to establish the responsibility, qualifications, and financial ability of Bidders, proposed Subcontractors, Suppliers, and other persons and organizations to perform and furnish the Goods in accordance with the Contract Documents to the Borough's satisfaction within the prescribed time. The Borough reserves the right to interview Bidders.

If the Contract is to be awarded, the Borough will give the apparent Successful Bidder a Notice of Intent to Award.

The Successful Bidder is required to complete an Internal Revenue Service Form (W-9) providing the bidder's taxpayer identification number (TIN), address, and, if applicable, certification regarding backup withholding. The Successful Bidder must submit a completed W-9 Form along with the executed Agreement. The Borough may waive this provision in the event the Borough is in possession of an accurate and up to date W-9 form.

13. Signing of Agreement

When the Borough gives a Notice of Intent to Award to the apparent Successful Bidder, it will be accompanied by three (3) unsigned counterparts of the Agreement (each with a copy of the Bid submission). Within fifteen (15) days thereafter, apparent Successful Bidder shall sign and deliver to the Borough the three (3) signed counterparts of the Agreement along with a completed W-9 form and Performance Bond. The Agreement may be cancelled, at the sole and absolute discretion of the Borough, if the apparent Successful Bidder does not execute, and deliver to the Borough the Agreement, W-9 form and Performance Bond, within fifteen (15) days from the date of the Notice of Intent to Award.

GENERAL TERMS AND CONDITIONS

1. PennDOT MS-963

In the event of a conflict between the terms and conditions of this Bid Document and the PennDOT MS-963 Form, PennDOT terms and conditions shall apply.

2. Labor and Equipment

The Contractor agrees to furnish all labor, tools, and equipment and to pay any and all costs and expenses necessary for or in connection with the work to be done hereunder in consideration of the payments hereinafter provided to be paid to the Contractor by the Borough.

3. Inspection of Work or Goods, Acceptance

The Borough reserves the right to inspect the Contractor's Goods, or other deliverables, and direct changes to the Contractor's methods and procedures within the scope of the Contract. Periodic inspections may be performed by the Borough or its agents. The Contractor shall allow the Borough reasonable time to perform such inspections or tests. The Borough shall give prompt notice to the Contractor as to whether the Goods appear to be conforming or non-conforming on the basis of any inspections or testing of conformity.

4. Termination

Should the Contractor fail to perform to the satisfaction of the Borough or to comply with any of the provisions of the Agreement or the Contract Documents, including but not limited to failure to deliver or make available for pick up the specific Goods within the timeframe or in the specific amount as established in the Specifications, the Borough may terminate the Agreement and the Contract for cause upon twenty four (24) hours written notice of intent to terminate to Contractor.

Notwithstanding the foregoing, the Borough may terminate this Agreement and the Contract without cause and without prejudice to any other right or remedy of the Borough upon ten (10) days' written notice to Contractor.

Contractor may only terminate the Agreement and the Contract in the event the Borough is in default and fails to cure said default within thirty (30) days from the date the Borough receives written notice from Contractor, which said notice shall set forth the alleged default.

In the event that the Borough terminates the Agreement and the Contract as provided for herein, Contractor agrees that Contractor shall not be entitled to, and shall not be paid, an amount of loss of anticipated profits or revenue or other economic loss arising out of and/or resulting from such termination. Contractor agrees that its sole remedy shall be payment for services rendered prior to termination of the Contract; provided however, that the Borough may offset any amount owed to the Contractor for services rendered by Contractor prior to termination for any damages, and/or costs suffered and/or incurred by the Borough as a result of any breach or failure by Contractor.

The Borough has the right to suspend performance of the Agreement and the Contract, at any time and without cause, by written notice, upon which the Contractor shall be entitled to an increase in the contract time and contract price caused by the suspension, as determined by the Borough in its sole and absolute discretion.

5. Warranty

The Contractor shall warrant and guarantee that such Goods supplied will be of merchantable quality and fit for the ordinary purposes for which such Goods are sold. Contractor shall warrant and guarantee that such Goods shall conform to the Specifications herein.

With respect to breach of warranty claims by the Borough, the Borough shall provide Contractor with reasonably prompt written notice setting forth in sufficient detail the reasons for declaring that it believes a breach of warranty has occurred. The Borough shall give Contractor prompt notice of defects that become apparent. Contractor shall have ten (10) days from receipt of the written notice declaring the breach (or such longer period of time as the Borough may grant in writing) within which to cure the alleged breach. These provisions shall be in addition to all other rights and remedies available to the Borough under the Agreement and any applicable laws.

6. Permits, Licenses, etc.

All permits, licenses, inspections, ratings, certificates and/or approvals related to the production and delivery of the Goods (in the event the Contractor delivers the Goods) are the sole responsibility of the Contractor and all costs and/or expenses for such should be included in the Bid. Failure to obtain and maintain such permits shall constitute a breach of the Contract.

7. Assignment

No assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such written consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

8. Invoices and Payment for Goods or Equipment

All payments will be processed through the Borough's standard accounts payable system. The Contractor Invoices should be marked NET 30 DAYS. The invoice must include, at a minimum, the quantity and type of item plus item price.

All items must be furnished (delivered or made available for pickup) at the price(s) bid as further defined in the Bidding Documents. All orders must be in writing.

If the Borough objects to any portion of an Invoice, the Borough shall so notify the Contractor in writing within twenty (20) days of receipt of the invoice. The Borough shall identify the specific cause of the disagreement and shall pay when due that portion of the invoice not in dispute. Interest as stated above shall be paid by the Borough on all disputed invoiced amounts resolved in the Contractor's favor and unpaid for more than forty-five (45) days after date of the notice of the dispute.

9. Insurance

Proof of Insurance is not required for this Bid or Agreement.

10. Indemnification

Contractor, and its subcontractors, if any, successors and assigns, its employees, agents, servants, and/or anyone acting under Contractor's control and/or Contractor's direction shall release, hold harmless, and indemnify the Borough, its officers, elected officials, agents, representatives, and employees acting within the scope of their official duties from and against any and all damages, costs, claims, suits, demands and expenses (including but not limited to reasonable attorneys' fees) to the extent caused by the negligent acts, willful misconduct, errors, or omissions of the Contractor, its employees, subcontractors, agents, servants, and/or anyone acting under the Contractor's control and/or the Contractor's direction, in the performance of the requirements of the Contract. Contractor shall defend any lawsuit commenced against the Borough and shall pay any judgments and costs connected with such proceeding

which are based upon the negligent acts or omissions of the Contractor or its employees, agents, servants, and/or anyone acting under Contractor's control and/or the Contractor's direction. If Contractor is successful in defending such a lawsuit, then the Borough will reimburse Contractor for its costs and expenses associated with such defense only to the extent that such liabilities arise from an action which can be properly brought against the Borough as an exception to governmental immunity in accordance with the Political Subdivision Tort Claims Act, 42 Pa.C.S.A. § 8541 *et. seq.* and in accordance with such limits of liability set forth in the Act. This Section 10 shall survive the termination of the Contract.

11. Taxes

All taxes of whatsoever kind, nature and description payable in respect to the performance of this agreement are to be paid by the Contractor unless otherwise provided by law.

12. Disputes

Before any litigation is brought pursuant to the Contract, the parties hereto agree to submit any dispute between them to mediation. Such mediation shall be a condition precedent to either party instituting litigation unless a stay of an applicable statute of limitations or repose is necessary. Such mediation may be initiated by written request and will occur within thirty (30) days of such request. A mutually agreeable impartial mediator may be retained, if requested by either party, to assist in the mediation process. In the event the parties cannot agree to a mediator, the president judge of the Court of Common Pleas in and for Franklin County, Pennsylvania, will be requested to appoint such mediator. In the event mediation does not result in the successful resolution of the dispute, either party may institute any and all actions necessary to protect their rights at law and/or equity in accordance with the Contract Documents.

13. Compliance with Laws

The furnishing of Goods under this Agreement shall conform to all applicable federal, state, and local laws, including but not be limited to the following, if applicable:

- a. Contractor is subject to the provisions of the Pennsylvania Steel Products Procurement Act of 1978, P.L. 6, as amended. The Act and amendments require that the Contractor use or furnish only steel products (as defined in the Act and amendments) which have been produced in the United States.
- b. Contractor is subject to the provisions of Pennsylvania Act 247 of 1972, as amended, relating to the prevention of environmental pollution and the preservation of public natural resources.
- c. Contractor is subject to the provisions of the Pennsylvania Human Relations Act No. 222 of 1955, as amended.
- d. Contractor shall comply with the Pennsylvania Public Works Contract Regulation Law, as amended by Act 142 of 1994 as it relates to timely payment by Contractor and Subcontractor to its Subcontractors.
- e. Contractor shall comply with the Antibid-Rigging Act, 62 Pa.C.S.A §4501, *et seq.*
- f. Contractor acknowledges and understands that any information received by the Borough may be subject to disclosure pursuant to the Pennsylvania Right to Know Law, 65 P.S. § 67.101 *et seq.*, and the Borough will process any and all request made pursuant to the Pennsylvania Right to Know Law in accordance with the Right to Know Law.



pennsylvania
DEPARTMENT OF TRANSPORTATION

**PROPOSAL AND CONTRACT FOR
EQUIPMENT AND/OR MATERIALS ONLY ***

INSTRUCTIONS ON PAGE 3

(THIS PROPOSAL INCLUDES
INSTRUCTIONS TO BIDDERS)

A. DEPOSIT OF PROPOSALS.

1. All envelopes containing Bid proposals shall be clearly marked "Bid Proposal for letting of 4/5/2016." **DATE**

Sealed Proposals will be received on or before 10:00 A.M., on the above Letting Date. **TIME**

Bids will be opened and read at approximately 10:00 A.M., on the above Letting Date. **TIME**

Borough of Chambersburg
MUNICIPALITY (NAME & TYPE)

Jamia Wright
SECRETARY

100 South Second Street
Chambersburg, PA 17201

ADDRESS
(717) 261-3254

MUNICIPAL CONTACT PHONE NUMBER

**PROPOSALS MUST BE MAILED OR OTHERWISE
DELIVERED TO THE ABOVE ADDRESS.**

2. Supplier agrees to furnish and deliver those items for which prices have been indicated on the Schedule of Prices (Attachment 1) in accordance with the current PennDOT Specifications (Pub. 408), except bidders need not be prequalified by PennDOT (Sec. 102.01). It is understood that: (1) Bituminous materials will be purchased weight or converted gallons at 60° F. (2) Supplier must furnish Form CS-4171, CERTIFICATE OF COMPLIANCE and/ or TR-465 DAILY BITUMINOUS MIX CERTIFICATION. (3) The Municipality reserves the right to make an award on the basis of quotations received for any item or on the basis of the aggregate total for all like items on which quotations are received.
3. Contract shall expire in one year from Date of Award or _____ (DATE)

B. CONTRACTOR'S CERTIFICATION

Proposal of _____
(NAME OF CONTRACTOR)

(ADDRESS)

1. It is hereby certified as follows:

a. The only person (s) having an interest in this proposal is (are) [include owners of leased equipment]:

b. None of the above persons are employees of the municipality.

c. This proposal is made without collusion with any other person, firm or corporation.

d. All specifications referred to above have been examined by the suppliers. The supplier understands that the quantities indicated herein are approximate and are subject to change as may be required; and that all work is payable on the basis of the unit prices listed on the Schedule of Prices (Attachment 1).

2. Accompanying this proposal is a certified check or bid bond in the amount of \$ _____ made payable to the municipality, as a proposal guarantee which, it is understood, will be forfeited in case the supplier fails to comply with the requirements of the proposal.
3. Name(s) of source(s) of supply of bituminous materials.

4. The supplier will comply with all requirements of the laws and implementing regulations of the Commonwealth of Pennsylvania and of the United States relating to human relations, equal opportunity and non-discrimination in employment, and will pay to workmen employed in the performance of the contract the wages to which they may be entitled and, when required by law, not less than the applicable prevailing wage.
5. The supplier will provide the municipality with a performance bond in the amount of 50% of the contract, conditioned upon the faithful performance of the contract.

WITNESS OR ATTESTED BY:

TITLE: _____



PLACE
SEAL
HERE

SUPPLIER _____

BY: _____

TITLE: _____



PLACE
SEAL
HERE

TO BE EXECUTED ONLY IN THE EVENT THE ABOVE PROPOSAL IS ACCEPTED

ACCEPTED ON:**ATTESTED BY:**

DATE _____

TITLE: _____

Borough Secretary

Borough of Chambersburg

MUNICIPALITY _____

BY: _____

TITLE: _____

President of Town Council

(SEAL)

TITLE: _____

TOTAL AMOUNT OF CONTRACT:

TITLE: _____

\$ _____

ITEMS INCLUDED IN CONTRACT:

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SCHEDULE OF PRICES FOR EQUIPMENT AND / OR MATERIALS

EQUIPMENT Type, Make, Model, Specifications: _____

Delivery Date: _____ F.O.B. _____

PRICE \$

OUTRIGHT PURCHASE - Trade-in \$ _____

Net \$

RENTAL WITH PURCHASE OPTION (Rental to be applied to purchase price.)

Rental: _____ per _____
(Hour, day, week, month, etc.)

PRICE \$ _____

- Trade-in \$ _____

Net \$ _____

PROPOSAL AND CONTRACT INSTRUCTIONS

1. The proposal must be typewritten or printed.
2. If more than one proposal on any project is submitted by any individual, firm or partnership, corporation or association under the same or different names, only one lowest proposal will be considered.
3. Bid bonds may be waived by municipality by crossing it out on Proposal Form 963.
4. Part A of page 1 is to be completed by the municipality. Part B of page 1 is to be completed by the supplier. Schedule of Prices - under equipment section the municipality must complete description, delivery date, delivery site, and check appropriate block (s) for outright purchase or rental with purchase option. Under material section all like materials must be listed together and space provided for a total of all like materials. **EXAMPLE:** All classes of concrete, all sizes of concrete pipe, all sizes corrugated metal pipe, all asphalt materials, etc. Columns 1, 2, 3, 4, and 5 (be sure to include delivery date) must be filled in by the municipality to insure equitable bidding. All of Columns 6, A, 7, B, 8, and C must be filled in by the supplier, unless otherwise indicated. (Unit Price delivered as directed does not apply to bituminous pavements. Use form MS-944.) If more space is needed, add note at the bottom of the page: " Continued on Attachment 1 - A" and add additional sheet designated as Attachment 1-A, 1-B, etc. Repeat note for each additional sheet required. Municipality may eliminate one or two pairs of Columns 6 through C, if no bids are desired under one or two of the options.
5. Performance bonds are provided by only the successful bidder. Bond must be in 50% of contract amount.
6. Where Materials for a Wearing Surface Treatment are part of the contract Average Daily Traffic (ADT) Count must be included in the description.
7. Contractor awarded the bid shall receive an approved copy of the contract.
8. Form MS-963 is not to be used for purchasing bituminous or other pavements in place. IF ALTERNATE BIDS MUST BE SECURED, BOTH MS-963 AND MS-944 MUST BE USED.
9. This form is PRIMARILY for use when work is performed by Local Forces.
10. An ESCALATOR CLAUSE is optional; however, it must be included in the proposal prepared by the Municipality. An escalator clause MAY NOT be inserted by the contractor.
11. Freight On Board (FOB) asphalt is subject to the requirements of Publication 408, Section 110.04(a) Price Adjustment of Bituminous Materials.

SCHEDULE OF PRICES - MATERIALS

BIDDER NAME:

1 ITEM NO.	2 APPROX. QUANTITY	3* UNIT	4** DESCRIPTION	5 REMARKS AND / OR DELIVERY DATES	6 UNIT PRICE FOB PLANT	A TOTAL (2 x 6)	7 UNIT PRICE DELIVERED AT JOB SITE	B TOTAL (2 x 7)	8*** UNIT PRICE DELIVERED AS DIRECTED	C TOTAL (2 x 8)
			SEE ATTACHMENT #1 (PAGES 1-4)							

* Gallons - Tons - Feet - etc.

** Includes Class - Size - Diameter

***For Bituminous or other Pavements in Place, Use Form 944

ALL COLUMNS MUST BE COMPLETED UNLESS OTHERWISE INDICATED.

USE OF CUTBACK ASPHALT IS PROHIBITED BETWEEN MAY 1 st
AND OCTOBER 31 st EXCEPT AS NOTED IN BULLETIN NO. 25.

SCHEDULE OF PRICES – MATERIALS

BIDDER NAME:

1 Item No.	2 Approx. Quantity	3* Unit	4** Description	5 Remarks And/Or Delivery Dates	6 Unit Price FOB Plant	A Total (2 x 6)	7 Unit Price Delivered At Job Site	B Total (2 x 7)	8*** Unit Price Delivered As Directed	C Total (2 x 8)
1	100	tons	(More or Less) #4 (4")							
2	100	tons	(More or Less) #3 (3")							
3	100	tons	(More or Less) #57 (57)							
4	100	tons	(More or Less) #67 (67)							
5	300	tons	(More or Less) #7 (1")							
6	150	tons	(More or Less) Dust							
7	100	tons	(More or Less) 2RC							
8	1000	tons	(More or Less) 2A Aggregate							
9	500	tons	(More or Less) #8 (1B)							
10	250	tons	(More or Less) 1/4"							
11	500	tons	(More or Less) Anti-skid							
12	100	tons	(More or Less) FJ-1							
13	500	tons	(More or Less) Cold Patch							
14	30,000	gal.	(More or Less) CMS-2 Emulsion							
15	1500	gal.	(More or Less) CRS-2 Emulsion							
16	1500	gal.	(More or Less) PG 64-22							
				CONTINUED	ON	NEXT	PAGE			

* Gallons – Tons – Feet – etc. ** Includes Class - Size - Diameter

*** For Bituminous or other Pavements in Place, Use Form 944

USE OF CUTBACK ASPHALT IS PROHIBITED BETWEEN MAY 1ST AND OCTOBER 31ST EXCEPT AS NOTED IN BULLETIN NO. 25

ALL COLUMNS MUST BE COMPLETED UNLESS OTHERWISE INDICATED.

SCHEDULE OF PRICES – MATERIALS

BIDDER NAME:

1	2	3*	4**	5	6	A	7	B	8***	C
Item No.	Approx. Quantity	Unit	Description	Remarks And/Or Delivery Dates	Unit Price FOB Plant	Total (2 x 6)	Unit Price Delivered At Job Site	Total (2 x 7)	Unit Price Delivered As Directed	Total (2 x 8)
17	1000	tons	I-D2 Wearing							
18	100	tons	I-D2 Binder							
19	1000	tons	BCBC							
20	1000	tons	(More or Less) Superpave 9.5 mm, PG 64-22 Wearing, 0.0 to 0.3 million ESAL, SRL M, 1-1/2" Depth							
21	500	tons	(More or Less) Superpave 9.5 mm, PG 64-22 Leveling, 0.0 to 0.3 million ESAL, SRL M, 80 lb./sy.							
22	1000	tons	(More or Less) Superpave 12.5 mm, PG 64-22 Wearing, 0.0 to 0.3 million ESAL, SRL M, 1-1/2" depth							
23	1000	tons	(More or Less) Superpave 19.0 mm, PG 64-22 Wearing, 0.0 to 0.3 million ESAL, SRL M, 1-1/2" depth							
24	100	tons	(More or Less) Superpave 19.0 mm, PG 64-22 Binder, 0.0 to 0.3 million ESAL, SRL M, 3" depth							

CONTINUED

PAGE

NEXT

ON

* Gallons – Tons – Feet – etc. ** Includes Class - Size - Diameter

*** For Bituminous or other Pavements in Place, Use Form 944

USE OF CUTBACK ASPHALT IS PROHIBITED BETWEEN MAY 1ST AND OCTOBER 31ST EXCEPT AS NOTED IN BULLETIN NO. 25

ALL COLUMNS MUST BE COMPLETED UNLESS OTHERWISE INDICATED.

SCHEDULE OF PRICES -- MATERIALS

BIDDER NAME:

1 Item No.	2 Approx. Quantity	3* Unit	4** Description	5 Remarks And/Or Delivery Dates	6 Unit Price FOB Plant	A Total (2 x 6)	7 Unit Price Delivered At Job Site	B Total (2 x 7)	8*** Unit Price Delivered As Directed	C Total (2 x 8)
25	100	tons	(More or Less) Superpave 25.0 mm, PG 64-22 Binder, 0.0 to 0.3 million ESAL, SRL M, 4" depth							
26	1000	tons	(More or Less) Superpave 25.0 mm, PG 64-22 Base, 0.0 to 0.3 million ESAL, SRL M, 5-1/2" depth							
27	1000	tons	(More or Less) Superpave 37.5 mm, PG 64-22 Base, 0.0 to 0.3 million ESAL, SRL M, 5-1/2" depth							
28	1000	tons	(More or Less) Superpave 9.5 mm, PG 64-22 Wearing, 0.3 to 3.0 million ESAL, SRL M, 1-1/2" depth							
29	500	tons	(More or Less) Superpave 9.5 mm, PG 64-22 Leveling, 0.3 to 3.0 million ESAL, SRL M, 80 lb./sy.							
30	1000	tons	(More or Less) Superpave 12.5 mm, PG 64-22 Wearing, 0.3 to 3.0 million ESAL, SRL M, 1-1/2" depth							

* Gallons -- Tons -- Feet -- etc. ** Includes Class - Size - Diameter

*** For Bituminous or other Pavements in Place, Use Form 944

USE OF CUTBACK ASPHALT IS PROHIBITED BETWEEN MAY 1ST
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ALL COLUMNS MUST BE COMPLETED UNLESS OTHERWISE INDICATED.

SCHEDULE OF PRICES – MATERIALS

BIDDER NAME:

1 Item No.	2 Approx. Quantity	3* Unit	4** Description	5 Remarks And/Or Delivery Dates	6 Unit Price FOB Plant	A Total (2 x 6)	7 Unit Price Delivered At Job Site	B Total (2 x 7)	8*** Unit Price Delivered As Directed	C Total (2 x 8)
31	1000	tons	(More or Less) Superpave 19.0 mm, PG 64-22 Wearing, 0.3 to 3.0 million ESAL, SRL M, 1-1/2" depth							
32	100	tons	(More or Less) Superpave 19.0 mm, PG 64-22 Binder, 0.3 to 3.0 million ESAL, SRL M, 3" depth							
33	100	tons	(More or Less) Superpave 25.0 mm, PG 64-22 Binder, 0.3 to 3.0 million ESAL, SRL M, 4" depth							
34	1000	tons	(More or Less) Superpave 25.0 mm, PG 64-22 Base, 0.3 to 3.0 million ESAL, SRL M, 5-1/2" depth							
35	1000	tons	(More or Less) Superpave 37.5 mm, PG 64-22 Base, 0.3 to 3.0 million ESAL, SRL M, 5-1/2" depth							

* Gallons – Tons – Feet – etc. ** Includes Class - Size - Diameter

*** For Bituminous or other Pavements in Place, Use Form 944

USE OF CUTBACK ASPHALT IS PROHIBITED BETWEEN MAY 1ST
AND OCTOBER 31ST EXCEPT AS NOTED IN BULLETIN NO. 25

ALL COLUMNS MUST BE COMPLETED UNLESS OTHERWISE INDICATED.

PERFORMANCE BOND

(With Corporate Surety)

Attachment # 2**KNOW ALL MEN BY THESE PRESENTS, That we,** _____

as Principal and _____

a corporation incorporated under the laws of the State of _____

as Surety, are held and firmly bound unto _____

in the full and just sum of _____

(\$ _____) dollars lawful money of the United States of America, to be paid to the above

Municipality or its assigns, to which payment well and truly to be made, we bind ourselves, our heirs, executors
administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the above bounden Principal has entered into a contract with the above Municipality, bearing
even date herewith, for the undertaking of certain obligations as therein set forth,

NOW, THEREFORE, the condition of this obligation is such that if the above bounden Principal, as
Contractor, shall in all respects comply with and faithfully perform the terms and conditions of said contract, including
the Specifications and conditions referred to and made a part thereof, and such alterations as may be made in said
Specifications as therein set forth, then this Obligation shall be void, but otherwise the same shall be and remain in full
force, virtue and effect.

It is further provided that any alteration which may be made in the terms of the contract or its specifications
with the express approval to the Municipality or the Principal to the other, shall not in any way release the Principal
and the Surety or either or any of them, their heirs, executors, administrators, successors or assigns from their
liability hereunder, notice to the Surety of any such alteration or forbearance being hereby waived.

IN WITNESS WHEREOF, the said Principal and Surety have duly executed this Bond under Seal, pursuant
to due and legal action authorizing the same to be done on _____

(DATE OF BOND)


 PLACE
SEAL
HERE
Attest / Witness_____
CONTRACTOR_____
TITLE**BY**_____
TITLE:

 PLACE
SEAL
HERE
Attest / Witness_____
SURETY COMPANY_____
TITLE_____
TITLE:

NON-DISCRIMINATION NOTICE

During the term of the Contract, Contractor agrees as follows:

- A. Contractor shall not discriminate against any employee, applicant for employment, independent contractor, or any other person because of race, color, religious creed, ancestry, national origin, age, sex or disability. Contractor shall take affirmative action to ensure that applicants are employed, and that employees or agents are treated during employment, without regard to their race, color, religious creed, ancestry, national origin, age, or sex. Such affirmative action shall include, but is not limited to, the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training. Contractor shall post in conspicuous places, available to employees, agents, applicants for employment and other persons, a notice to be provided by the contracting agency setting forth the provisions of this non-discrimination clause.
- B. Contractor shall in advertisements or requests for employment placed by it or on its behalf state all qualified applicants will receive consideration for employment without regard to race, color, religious creed, ancestry, national origin, age, sex, or disability.
- C. Contractor shall send each labor union or workers' representative with which it has a collective bargaining agreement or other contract or understanding, a notice advising said labor union or workers' representative of its commitment to this non-discrimination clause. Similar notice shall be sent to every other source of recruitment regularly utilized by Contractor.
- D. It shall be no defense to a finding of a noncompliance with Contract Compliance Regulations issued by the Pennsylvania Human Relations Commission or this non-discrimination clause that contract has delegated some of its employment practices to any union, training program, or other source of recruitment which prevents it from meeting its obligations. However, if the evidence indicates Contractor was not on notice of the third-party discrimination or made a good faith effort to correct it, such factor shall be considered in mitigation in determining appropriate sanctions.
- E. Where the practices of a union or any training program or other source of recruitment will result in the exclusion of minority group persons, so that Contractor will be unable to meet its obligations under the Contract Compliance Regulations issued by the Pennsylvania Human Relations Commission or this non-discrimination clause, Contractor shall then employ and fill vacancies through other non-discrimination employment procedures.
- F. Contractor shall comply with the Contract Compliance Regulations of the Pennsylvania Human Relations Commission, 16 Pa. Code Chapter 49 and with all laws prohibiting discrimination in hiring or employment opportunities. In the event of Contractor's non-compliance with the non-discrimination clause of this contract or with any such laws, this contract may, after hearing and adjudication, be terminated or suspended, in whole or in part, and Contractor may be declared temporarily ineligible for Commonwealth of Pennsylvania contracts, and such other sanctions may be imposed and remedies invoked as provided by the Contract Compliance Regulations.
- G. Contractor shall furnish all necessary employment documents and records to, and permit access to its books, records and accounts by, the contracting agency and the Human Relations Commission, for purposes of investigation to ascertain compliance with the provisions of the Contract Compliance Regulations, pursuant to §49.35 (relating to information concerning compliance by contractors). If Contractor does not possess documents or records reflecting the necessary information requested, it shall furnish such information on reporting forms supplied by the contracting agency or the Commission.
- H. Contractor shall actively recruit minority subcontractors or subcontractors with substantial minority representation among their employees.
- I. Contractor shall include the provisions of this non-discrimination clause in every subcontract, so that such provisions will be binding upon each subcontractor.

- J. The terms used in this non-discrimination clause shall have the same meaning as in the Contract Compliance Regulations issued by the Pennsylvania Human Relations Commission, 16 Pa. Code Chapter 49.
- K. Contractor obligations under this clause are limited to the Contractor's facilities within Pennsylvania, or, where the contract is for purchase of goods manufactured outside of Pennsylvania, the facilities at which such goods are actually produced.

BIDDER AFFIDAVIT

The Specifications and all documents required by it and submitted herewith including but not limited to the Contract and all other documents made a part hereof by its terms, are hereby made a part of this Proposal.

The undersigned Bidder hereby represents as follows:

- A. That he has carefully examined the Proposal, the Contract, and the Specifications;
 - B. That no officer, agent, or employee of the Borough of Chambersburg is personally interested directly or indirectly in this Proposal and the accompanying Contract or the compensation to be paid herein under;
 - C. That the Proposal is made without connection with any person, firm or corporation making a Proposal for the same work, and is in all respects fair and without collusion or fraud; and
 - D. That should this Proposal be accepted by the Borough of Chambersburg within sixty (60) days of the opening of bids, he will execute the Contract and furnish any other documents within the time and in the forms and amount required by the Contract and Specifications, and that upon his failure, neglect or refusal to do so, he shall forfeit to the Borough of Chambersburg any and all Proposal Security, not as a penalty, but as a liquidated damage.
-

Name of Bidder, Corporation, Firm or Individual

By: _____
Authorized Representative

Please Print Signature

Title

Business Address of Bidder

Phone #

INSTRUCTIONS FOR NON-COLLUSION AFFIDAVIT

1. This Non-Collusion Affidavit is material to any contract awarded pursuant to this bid. According to the Pennsylvania Antibid-Rigging Act, 73 P.S. 1611 et seq., governmental agencies may require Non-Collusion Affidavits to be submitted together with bids.
2. This Non-Collusion Affidavit must be executed by the member, officer or employee of the Bidder who makes the final decision on prices and the amount quoted in the bid.
3. Bid-rigging, and other efforts to restrain competition, and the making of false sworn statements in connection with the submission of bids, are unlawful and may be subject to criminal prosecution. The person who signs the Affidavit should examine it carefully before signing and assure himself or herself that each statement is true and accurate, making diligent inquiry, as necessary, of all other persons employed by or associated with the Bidder with responsibilities for the preparation, approval or submission of the bid.
4. In the case of a bid submitted by a joint venture, each party to the venture must be identified in the bid documents and an Affidavit must be submitted separately on behalf of each party.
5. The term "complementary bid", as used in the Affidavit, has the meaning commonly associated with that term in the bidding process and includes the knowing submission of bids higher than the bid of another firm, any intentionally high or non-competitive bid and any other form of bid submitted for the purpose of giving a false appearance of competition.
6. Failure to file an Affidavit, in compliance with these instructions, will result in disqualification of the bid.

NON-COLLUSION AFFIDAVIT

Contract/Bid No. _____

State of :

County of :

I state that I am, _____ of _____
(Title) (Name of Firm)

and that I am authorized to make this Affidavit on behalf of my firm and its owners, directors and officers. I am the person responsible in my firm for the price(s) and the amount of this bid.

I state that:

- (1) The price(s) and amount of this bid have been arrived at independently and without consultation, communication or agreement with any other contractor, Bidder or potential Bidder.
- (2) Neither the price(s) nor the amount of this bid, and neither the approximate price(s) nor approximate amount of this bid, have been disclosed to any other firm or person who is a Bidder or potential Bidder, and they will not be disclosed before bid opening.
- (3) No attempt has been made or will be made to induce any firm or person to refrain from bidding on this contract, or to submit a bid higher than this bid, or to submit any intentionally high or non-competitive bid or other form of complementary bid.
- (4) The bid of my firm is made in good faith and not pursuant to any agreement or discussion with, or inducement from, any firm or person to submit a complementary or other non-competitive bid.
- (5) (Name of Firm) _____ its affiliates, subsidiaries, officers, directors and employees are not currently under investigation by any governmental agency and have not, in the last four (4) years, been convicted or found liable or any act prohibited by State or Federal law in any jurisdiction involving conspiracy or collusion with respect to bidding on any public contract, except as follows:

I state that _____ (Name of Firm) understand and acknowledges that the above representations are material and important and will be relied on by the Borough of Chambersburg in awarding the contract(s) for which this bid is submitted.

NON-COLLUSION AFFIDAVIT CONTINUED

I understand, and my firm understands, that any misstatement in this Affidavit is and shall be treated as fraudulent concealment from the Borough of Chambersburg of the true facts relating to the submission of bid for this contract.

(Signature)

(Print Name)

(Company Position)

SWORN AND SUBSCRIBED
BEFORE ME THIS

(Date)

Notary Public
My Commission Expires:

(Date)

SPECIFICATIONS

EMULSION PRODUCTS

Scope

This Bid and Contract only covers Emulsion Products procured directly by the Borough and does not include Emulsion Products procured by a general contractor for use on Borough projects.

Location of Source

The Bidder shall provide a location of Source for the materials, goods and items and mileage one way from the material Source to the Borough Garage at 342 W. Loudon Street, Chambersburg, PA 17201 along with the Proposal.

Materials to be delivered or picked up

Emulsion Products shall either be delivered by Contractor to various jobs sites within the Borough or the Borough may choose to pick-up Emulsion Products at the Contractor's facility. For each item, Bidders may provide different bids for Goods delivered by Contractor or picked up by Borough options. Goods to be picked up by the Borough are bid under column 6 entitled "Unit Price FOB Plant" while goods to be delivered by the Contractor as bid under column 7 entitled "Unit Price Delivered at Job Site". For Goods to be picked up by the Borough (Column 6 on the Schedule of Prices), the Borough, in determining which bid is in the best interest of the Borough, may take into consideration the mileage from the Borough to the Bidder's Location of Source.

The Point of Destination to the Job Site may vary from time to time but shall not be more than a fifteen (15) mile radius from Chambersburg City Hall, 100 South Second Street, Chambersburg PA 17201. Contractors can expect that the Point of Destination shall be within the Borough limits for a majority of projects.

Escalator Clause

An Escalator Clause will be used in accordance with PennDOT Form 408, Section 110.04.

Supply Time

For certain project, the Borough will place orders for Emulsion Products in certain quantities prior to twenty four (24) hours of project need (i.e. by 1:00 PM Thursday for 1:00 PM Friday). The Contractor shall make available the above Emulsion Products in the quantities requested within twenty four (24) hours of such order being placed, barring delays beyond the control Contractor. In the event the Contractor cannot supply Emulsion Products within twenty four (24) hours of such order being placed, the Contractor may be responsible for any cost difference incurred by the Borough if Emulsion Products must be purchased from another vendor.

From time to time, the Borough may need Emulsion Products for certain Borough projects sooner than twenty four (24) hours from order placement. If so, the Borough shall first request Emulsion Products from the Contractor. In the event the Contractor cannot supply Emulsion Products within this shorter timeframe, the Borough may choose to secure Emulsion Products from another vendor and the Contractor shall not be responsible for any cost difference incurred by the Borough.

END OF SECTION

AGREEMENT

THIS AGREEMENT (the "Agreement") made this _____ day of _____ 20____ (the "Effective Date") by and between the Borough of Chambersburg, a Municipal Corporation organized and existing under the laws of the Commonwealth of Pennsylvania, (hereinafter the "Borough") and _____ (hereinafter the "Contractor").

WITNESSETH

WHEREAS, the Borough has authorized the purchase of certain Goods or other deliverables in connection with "**Specifications and Contract Documents for Emulsion Products**" (hereinafter the "Specifications"), as required, all in accordance with said Contract Documents as further defined below, attached hereto and made a part herein; and

WHEREAS, the Contractor has submitted to the Borough a Bid in conformity with said Specifications, a copy of which proposal is hereto attached and made a part hereof (hereinafter the "Proposal"); and

WHEREAS, the Borough, after due consideration and appropriate action, has determined that it is in the best interest of the Borough to award a contract to the Contractor for the purchase of said Item(s) included in said Bid in accordance with the terms and conditions as set forth herein.

NOW THEREFORE, the Borough and the Contractor in consideration of the requirements, terms and conditions of said Specifications and the offers, promises and representations made by the Contractor in said Proposal, by each of the parties hereto, on their parts, to be observed and fulfilled, do hereby agree as follows:

Article 1 – Recitals

The above recitals are incorporated herein by reference thereto and made a part of this Agreement.

Article 2 – Contract Documents

The Contract Documents include the following documents issued under the Specifications: Notice / Advertisement, Instructions to Bidders, General Terms and Conditions, PennDOT MS-963 Form including all MS963 attachments, Non-Discrimination Notice, Bidder Affidavit, Non-Collusion Affidavit, Receipt of Confirmation of Bidding and Contract Documents (if applicable), any and all Addenda (if applicable), Receipt of Addenda (if applicable), the Contractor's completed Proposal, Agreement, Performance Bond, completed W-9 Form and any required attachments or written amendment(s) and Notice to Proceed (hereinafter, the "Contract Documents"), which documents are incorporated into this Agreement by reference.

Article 3 – Basis of Agreement

The parties hereto recognize that the Contract Documents are the basis of this Agreement, and the parties accept the same, and declare that there are no understandings, representations or promises, written or verbal, having any bearing on this Agreement which are not expressed in said Contract Documents and Contractor's Proposal or written in this Agreement.

Article 4 – Scope

The Contractor agrees to furnish the Item(s) (the "Goods"), as included in the Bidder's Proposal and selected by the Borough, and to faithfully perform and complete all work necessary for or incidental to or connected therewith in full conformity with said Contract Documents and this Agreement, and to demonstrate and make good any guarantees and warranties therein required and contained, for all of which things faithfully and fully performed and completed, the Borough agrees to pay the Contractor and the Contractor agrees to accept from the Borough in full settlement therefor, the total sum or contract price of lawful money of the United States of America, at the time, in

the manner, and under the conditions named in said Specifications, for the Item(s) indicated below and further included in Exhibit 1: Bidder's Proposal, attached hereto and incorporated herein.

Item(s) No. _____

Article 5 – Point of Destination

For Goods to be delivered by Contractor, the place where each Good is to be delivered shall be known as the Point of Destination for that Good, as further designated in the Contract Documents.

Article 6 – Term / Contract Times

The term of this Agreement shall begin on the May 15, 2016 and terminate at midnight on May 14, 2017, unless terminated or extended at the Borough's sole and absolute option as provided for herein. All times set forth for the completion and furnishing, and any applicable installation and /or testing, is the essence of the Agreement. The Goods shall be ready for the Borough's receipt of delivery or pick up on or prior to the times as indicated in the Contract Documents for each Good, contingent upon placement of order by the Borough.

Article 7 – Contract Price

The Borough shall pay the Contractor for furnishing the Goods in accordance with the General Terms and Conditions, as provided in the Contract Documents as follows:

The prices as stated in Contractor's Bid for Item(s) No. _____, as included herein.

Article 8 – Payment Procedures

The Borough shall pay and the Contractor shall receive and accept as full payment for the performance of the Contractor's obligations hereunder, the price(s) stipulated in the Proposal hereto attached and in the manner as specified in the Contract Documents and this Agreement. The Contractor shall submit invoices in accordance with the Contract Documents. All payments will be processed through the Borough's standard accounts payable system.

Article 9 – Contractor's Representations

In order to induce the Borough into this Agreement, the Contractor makes the following representations:

- A. The Contractor has examined and carefully studied the Contract Documents and any and all other related data as identified in the Bidding Documents, including any technical data;
- B. If specified, or if, in Contractor's judgment, any local condition may affect cost, progress or the furnishing of Goods, Contractor has visited the applicable Point(s) of Destination to become familiar with the local conditions and is satisfied as to the local conditions that may affect cost, progress, or the furnishing of the Goods;
- C. Contractor is familiar with and satisfied as to all federal, state, and local Laws and regulations that may affect cost, progress, or the furnishing of Goods;
- D. Contractor has carefully studied and correlate the information known to Contractor, and information and observations obtained from Contractor's visits, if any, to the Point of Destination, with the Contract Documents;
- E. Contractor promptly gave the Borough written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor discovered in the Contract Documents and the Bidding Documents and confirmed that the written resolution thereof by the Borough is acceptable to Contractor; and
- F. Contractor determined that the Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for furnishing Goods.

- G. Contractor is authorized to do business in Pennsylvania and that the person signing on behalf of the Contractor is authorized to bind Contractor to the terms and conditions set forth herein.

Article 10 – Termination / Suspension

Should the Contractor fail to perform to the satisfaction of the Borough or to comply with any of the provisions of the Agreement or the Contract Documents, including but not limited to failure to deliver or make available for pick up the specific Goods within the timeframe or in the specific amount as established in the Specifications, the Borough may terminate the Agreement and the Contract for cause upon twenty four (24) hours written notice of intent to terminate to Contractor.

Notwithstanding the foregoing, the Borough may terminate this Agreement and the Contract without cause and without prejudice to any other right or remedy of the Borough upon ten (10) days' written notice to Contractor.

Contractor may only terminate the Agreement and the Contract in the event the Borough is in default and fails to cure said default within thirty (30) days from the date the Borough receives written notice from Contractor, which said notice shall set forth the alleged default.

In the event that the Borough terminates the Agreement and the Contract as provided for herein, Contractor agrees that Contractor shall not be entitled to, and shall not be paid, an amount of loss of anticipated profits or revenue or other economic loss arising out of and/or resulting from such termination. Contractor agrees that its sole remedy shall be payment for services rendered prior to termination of the Contract, provided however that the Borough may offset any amount owed to the Contractor for services rendered by Contractor prior to termination for any damages, and/or costs suffered and/or incurred by the Borough as a result of any breach or failure by Contractor.

The Borough has the right to suspend performance of the Agreement and the Contract, at any time and without cause, by written notice, upon which the Contractor shall be entitled to an increase in the contract time and contract price caused by the suspension, as determined by the Borough in its sole and absolute discretion.

Article 11 - Force Majeure

The Borough, the Contractor, and sub-contractors shall not be held responsible for any delay, default, or nonperformance directly caused by an act of God, unforeseen adverse weather events, accident, labor strike, fire, explosion, riot, war, rebellion, terrorist activity, sabotage, flood, epidemic, act of federal or state government, labor, material, equipment, or supply shortage. Notwithstanding the foregoing, such delays, defaults, or nonperformance shall result from matters that would not be reasonably foreseen by a Contractor exercising reasonable due diligence and/or care.

Article 12 - Non-Discrimination

The Contractor shall not discriminate against any employee, applicant for employment, or any person seeking the Services of the Contractor to be provided under this Agreement on the basis of race, color, religion, creed, sex, age, national origin, marital status, or presence of any sensory, mental, or physical handicap.

Article 13 – Assignment

No assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

Article 14 – Remedies

No remedy herein conferred upon any party is exclusive of any other remedy, and each and every remedy shall be cumulative and shall be in addition to every other remedy given hereunder or provided by law, equity, statute, or unless otherwise stated herein. No single or partial exercise by any party of any right, power, or remedy hereunder

shall preclude any other exercise or further exercise thereof. Notwithstanding the foregoing, Contractor waives any and all claims to consequential, incidental, compensatory or punitive damages that may arise out of and/or resulting from this Agreement, including but not limited to loss of anticipated profits or revenue or other economic loss in the event this Agreement is terminated. Further, Contractor agrees that Contractor's sole remedy for any claim arising out of or relating to this Agreement shall be payment for services rendered prior to any termination of the Agreement, provided however that the Borough may offset any amount owed to the Contractor for services rendered by Contractor prior to termination of the Agreement for any damages, and/or costs suffered and/or incurred by the Borough as a result of any breach or failure by Contractor.

Article 15 - Applicable Law / Venue / Jurisdiction

This Agreement shall be construed according to, be subject to, and be governed by the laws of the Commonwealth of Pennsylvania. The parties hereto agree that any and all legal and/or equitable actions arising out of or relating to, directly or indirectly, this Agreement shall be filed with the Court of Common Pleas in and for of Franklin County, Pennsylvania and that the Court of Common Pleas in and for Franklin County, Pennsylvania shall have exclusive jurisdiction and venue over such an action.

Article 16 – Successors and Assigns

The Borough and Contractor each binds itself, its partners, successors, assigns, and legal representatives to the other party hereto, its partners, successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

Article 17 - Disputes

Before any litigation is brought pursuant to the Contract, the parties hereto agree to submit any dispute between them to mediation. Such mediation shall be a condition precedent to either party instituting litigation unless a stay of an applicable statute of limitations or repose is necessary. Such mediation may be initiated by written request and will occur within thirty (30) days of such request. A mutually agreeable impartial mediator may be retained, if requested by either party, to assist in the mediation process. In the event the parties cannot agree to a mediator, the president judge of the Court of Common Pleas in and for Franklin County, Pennsylvania, will be requested to appoint such mediator. In the event mediation does not result in the successful resolution of the dispute, either party may institute any and all actions necessary to protect their rights at law and/or equity in accordance with the Contract Documents.

Article 18 - Entire Agreement / Amendments

This Agreement contains the entire Agreement between the parties and no other agreements, oral or otherwise, regarding the subject matter of this Agreement, shall be deemed to exist or bind any of the parties. This Agreement cannot be modified, except by a written document signed by the parties hereto. Town Council's approval at a public meeting shall be required to amend this Agreement unless otherwise delegated to its designees.

Article 19 - Severability

If any term, provision, covenant, or condition of this Agreement is held by a court of competitive jurisdiction to be invalid, void or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired, or invalidated as a result of such decision.

Article 20 - Counterparts

This agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which together shall constitute the same instrument.

(SIGNATURES APPEAR ON FOLLOWING PAGE)

IN WITNESS WHEREOF the parties hereto have set their hands and seals as of the date first above written.

(If Contractor is an Individual)

_____ Signature of Witness	_____ Signature of Individual
	Trading and doing business as:
	_____ Name of Business
	_____ Address of Business

(If Contractor is a Partnership - All General Partners Must Sign)

	_____ Name of Partnership
	_____ Address of Partnership
_____ Signature of Witness	_____ Signature of Partner
_____ Signature of Witness	_____ Signature of Partner
_____ Signature of Witness	_____ Signature of Partner

(If Contractor is a Corporation)

Attest:

Name of Corporation

Signature of Secretary or
Assistant Secretary

Address of Principal Office

(Corporate Seal)

State of Incorporation

Signature of
President or Vice President

Attest:

BOROUGH OF CHAMBERSBURG

100 South 2nd Street
Chambersburg, PA 17201

Jamia L. Wright

Allen B. Coffman

Borough Secretary

President of Town Council

END OF AGREEMENT

Request for Taxpayer Identification Number and Certification

Give Form to the
requester. Do not
send to the IRS.

Print or type See Specific Instructions on page 2.	Name (as shown on your income tax return)	
	Business name/disregarded entity name, if different from above	
	Check appropriate box for federal tax classification: <input type="checkbox"/> Individual/sole proprietor <input type="checkbox"/> C Corporation <input type="checkbox"/> S Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Trust/estate <input type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) ▶ _____ <input type="checkbox"/> Other (see instructions) ▶ _____	
	Exemptions (see instructions): Exempt payee code (if any) _____ Exemption from FATCA reporting code (if any) _____	
	Address (number, street, and apt. or suite no.) City, state, and ZIP code	
List account number(s) here (optional)		
Requester's name and address (optional) Borough Of Chambersburg 100 South Second Street Chambersburg, Pa 17201		

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on the "Name" line to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Note. If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

Social security number								
				-				
Employer identification number								
				-				

Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
3. I am a U.S. citizen or other U.S. person (defined below), and
4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 3.

Sign
Here

Signature of
U.S. person ▶

Date ▶

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. The IRS has created a page on IRS.gov for information about Form W-9, at www.irs.gov/w9. Information about any future developments affecting Form W-9 (such as legislation enacted after we release it) will be posted on that page.

Purpose of Form

A person who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, payments made to you in settlement of payment card and third party network transactions, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the

withholding tax on foreign partners' share of effectively connected income, and

4. Certify that FATCA code(s) entered on this form (if any) indicating that you are exempt from the FATCA reporting, is correct.

Note. If you are a U.S. person and a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

Definition of a U.S. person. For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States,
- An estate (other than a foreign estate), or
- A domestic trust (as defined in Regulations section 301.7701-7).

Special rules for partnerships. Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax under section 1446 on any foreign partners' share of effectively connected taxable income from such business. Further, in certain cases where a Form W-9 has not been received, the rules under section 1446 require a partnership to presume that a partner is a foreign person, and pay the section 1446 withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid section 1446 withholding on your share of partnership income.

In the cases below, the following person must give Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States:

- In the case of a disregarded entity with a U.S. owner, the U.S. owner of the disregarded entity and not the entity,
- In the case of a grantor trust with a U.S. grantor or other U.S. owner, generally, the U.S. grantor or other U.S. owner of the grantor trust and not the trust, and
- In the case of a U.S. trust (other than a grantor trust), the U.S. trust (other than a grantor trust) and not the beneficiaries of the trust.

Foreign person. If you are a foreign person or the U.S. branch of a foreign bank that has elected to be treated as a U.S. person, do not use Form W-9. Instead, use the appropriate Form W-8 or Form 8233 (see Publication 515, Withholding of Tax on Nonresident Aliens and Foreign Entities).

Nonresident alien who becomes a resident alien. Generally, only a nonresident alien individual may use the terms of a tax treaty to reduce or eliminate U.S. tax on certain types of income. However, most tax treaties contain a provision known as a "saving clause." Exceptions specified in the saving clause may permit an exemption from tax to continue for certain types of income even after the payee has otherwise become a U.S. resident alien for tax purposes.

If you are a U.S. resident alien who is relying on an exception contained in the saving clause of a tax treaty to claim an exemption from U.S. tax on certain types of income, you must attach a statement to Form W-9 that specifies the following five items:

1. The treaty country. Generally, this must be the same treaty under which you claimed exemption from tax as a nonresident alien.
2. The treaty article addressing the income.
3. The article number (or location) in the tax treaty that contains the saving clause and its exceptions.
4. The type and amount of income that qualifies for the exemption from tax.
5. Sufficient facts to justify the exemption from tax under the terms of the treaty article.

Example. Article 20 of the U.S.-China income tax treaty allows an exemption from tax for scholarship income received by a Chinese student temporarily present in the United States. Under U.S. law, this student will become a resident alien for tax purposes if his or her stay in the United States exceeds 5 calendar years. However, paragraph 2 of the first Protocol to the U.S.-China treaty (dated April 30, 1984) allows the provisions of Article 20 to continue to apply even after the Chinese student becomes a resident alien of the United States. A Chinese student who qualifies for this exception (under paragraph 2 of the first protocol) and is relying on this exception to claim an exemption from tax on his or her scholarship or fellowship income would attach to Form W-9 a statement that includes the information described above to support that exemption.

If you are a nonresident alien or a foreign entity, give the requester the appropriate completed Form W-8 or Form 8233.

What is backup withholding? Persons making certain payments to you must under certain conditions withhold and pay to the IRS a percentage of such payments. This is called "backup withholding." Payments that may be subject to backup withholding include interest, tax-exempt interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, payments made in settlement of payment card and third party network transactions, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

You will not be subject to backup withholding on payments you receive if you give the requester your correct TIN, make the proper certifications, and report all your taxable interest and dividends on your tax return.

Payments you receive will be subject to backup withholding if:

1. You do not furnish your TIN to the requester,
2. You do not certify your TIN when required (see the Part II instructions on page 3 for details),
3. The IRS tells the requester that you furnished an incorrect TIN,
4. The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends on your tax return (for reportable interest and dividends only), or
5. You do not certify to the requester that you are not subject to backup withholding under 4 above (for reportable interest and dividend accounts opened after 1983 only).

Certain payees and payments are exempt from backup withholding. See *Exempt payee code* on page 3 and the separate Instructions for the Requester of Form W-9 for more information.

Also see *Special rules for partnerships* on page 1.

What is FATCA reporting? The Foreign Account Tax Compliance Act (FATCA) requires a participating foreign financial institution to report all United States account holders that are specified United States persons. Certain payees are exempt from FATCA reporting. See *Exemption from FATCA reporting code* on page 3 and the Instructions for the Requester of Form W-9 for more information.

Updating Your Information

You must provide updated information to any person to whom you claimed to be an exempt payee if you are no longer an exempt payee and anticipate receiving reportable payments in the future from this person. For example, you may need to provide updated information if you are a C corporation that elects to be an S corporation, or if you no longer are tax exempt. In addition, you must furnish a new Form W-9 if the name or TIN changes for the account, for example, if the grantor of a grantor trust dies.

Penalties

Failure to furnish TIN. If you fail to furnish your correct TIN to a requester, you are subject to a penalty of \$50 for each such failure unless your failure is due to reasonable cause and not to willful neglect.

Civil penalty for false information with respect to withholding. If you make a false statement with no reasonable basis that results in no backup withholding, you are subject to a \$500 penalty.

Criminal penalty for falsifying information. Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.

Misuse of TINs. If the requester discloses or uses TINs in violation of federal law, the requester may be subject to civil and criminal penalties.

Specific Instructions

Name

If you are an individual, you must generally enter the name shown on your income tax return. However, if you have changed your last name, for instance, due to marriage without informing the Social Security Administration of the name change, enter your first name, the last name shown on your social security card, and your new last name.

If the account is in joint names, list first, and then circle, the name of the person or entity whose number you entered in Part I of the form.

Sole proprietor. Enter your individual name as shown on your income tax return on the "Name" line. You may enter your business, trade, or "doing business as (DBA)" name on the "Business name/disregarded entity name" line.

Partnership, C Corporation, or S Corporation. Enter the entity's name on the "Name" line and any business, trade, or "doing business as (DBA)" name on the "Business name/disregarded entity name" line.

Disregarded entity. For U.S. federal tax purposes, an entity that is disregarded as an entity separate from its owner is treated as a "disregarded entity." See Regulation section 301.7701-2(c)(2)(ii). Enter the owner's name on the "Name" line. The name of the entity entered on the "Name" line should never be a disregarded entity. The name on the "Name" line must be the name shown on the income tax return on which the income should be reported. For example, if a foreign LLC that is treated as a disregarded entity for U.S. federal tax purposes has a single owner that is a U.S. person, the U.S. owner's name is required to be provided on the "Name" line. If the direct owner of the entity is also a disregarded entity, enter the first owner that is not disregarded for federal tax purposes. Enter the disregarded entity's name on the "Business name/disregarded entity name" line. If the owner of the disregarded entity is a foreign person, the owner must complete an appropriate Form W-8 instead of a Form W-9. This is the case even if the foreign person has a U.S. TIN.

Note. Check the appropriate box for the U.S. federal tax classification of the person whose name is entered on the "Name" line (individual/sole proprietor, Partnership, C Corporation, S Corporation, Trust/estate).

Limited Liability Company (LLC). If the person identified on the "Name" line is an LLC, check the "Limited liability company" box only and enter the appropriate code for the U.S. federal tax classification in the space provided. If you are an LLC that is treated as a partnership for U.S. federal tax purposes, enter "P" for partnership. If you are an LLC that has filed a Form 8832 or a Form 2553 to be taxed as a corporation, enter "C" for C corporation or "S" for S corporation, as appropriate. If you are an LLC that is disregarded as an entity separate from its owner under Regulation section 301.7701-3 (except for employment and excise tax), do not check the LLC box unless the owner of the LLC (required to be identified on the "Name" line) is another LLC that is not disregarded for U.S. federal tax purposes. If the LLC is disregarded as an entity separate from its owner, enter the appropriate tax classification of the owner identified on the "Name" line.

Other entities. Enter your business name as shown on required U.S. federal tax documents on the "Name" line. This name should match the name shown on the charter or other legal document creating the entity. You may enter any business, trade, or DBA name on the "Business name/disregarded entity name" line.

Exemptions

If you are exempt from backup withholding and/or FATCA reporting, enter in the *Exemptions* box, any code(s) that may apply to you. See *Exempt payee code* and *Exemption from FATCA reporting code* on page 3.

Exempt payee code. Generally, individuals (including sole proprietors) are not exempt from backup withholding. Corporations are exempt from backup withholding for certain payments, such as interest and dividends. Corporations are not exempt from backup withholding for payments made in settlement of payment card or third party network transactions.

Note. If you are exempt from backup withholding, you should still complete this form to avoid possible erroneous backup withholding.

The following codes identify payees that are exempt from backup withholding:

- 1—An organization exempt from tax under section 501(a), any IRA, or a custodial account under section 403(b)(7) if the account satisfies the requirements of section 401(f)(2)
- 2—The United States or any of its agencies or instrumentalities
- 3—A state, the District of Columbia, a possession of the United States, or any of their political subdivisions or instrumentalities
- 4—A foreign government or any of its political subdivisions, agencies, or instrumentalities
- 5—A corporation
- 6—A dealer in securities or commodities required to register in the United States, the District of Columbia, or a possession of the United States
- 7—A futures commission merchant registered with the Commodity Futures Trading Commission
- 8—A real estate investment trust
- 9—An entity registered at all times during the tax year under the Investment Company Act of 1940
- 10—A common trust fund operated by a bank under section 584(a)
- 11—A financial institution
- 12—A middleman known in the investment community as a nominee or custodian
- 13—A trust exempt from tax under section 664 or described in section 4947

The following chart shows types of payments that may be exempt from backup withholding. The chart applies to the exempt payees listed above, 1 through 13.

IF the payment is for . . .	THEN the payment is exempt for . . .
Interest and dividend payments	All exempt payees except for 7
Broker transactions	Exempt payees 1 through 4 and 6 through 11 and all C corporations. S corporations must not enter an exempt payee code because they are exempt only for sales of noncovered securities acquired prior to 2012.
Barter exchange transactions and patronage dividends	Exempt payees 1 through 4
Payments over \$600 required to be reported and direct sales over \$5,000 ¹	Generally, exempt payees 1 through 5 ²
Payments made in settlement of payment card or third party network transactions	Exempt payees 1 through 4

¹ See Form 1099-MISC, Miscellaneous Income, and its instructions.

² However, the following payments made to a corporation and reportable on Form 1099-MISC are not exempt from backup withholding: medical and health care payments, attorneys' fees, gross proceeds paid to an attorney, and payments for services paid by a federal executive agency.

Exemption from FATCA reporting code. The following codes identify payees that are exempt from reporting under FATCA. These codes apply to persons submitting this form for accounts maintained outside of the United States by certain foreign financial institutions. Therefore, if you are only submitting this form for an account you hold in the United States, you may leave this field blank. Consult with the person requesting this form if you are uncertain if the financial institution is subject to these requirements.

- A—An organization exempt from tax under section 501(a) or any individual retirement plan as defined in section 7701(a)(37)
- B—The United States or any of its agencies or instrumentalities
- C—A state, the District of Columbia, a possession of the United States, or any of their political subdivisions or instrumentalities
- D—A corporation the stock of which is regularly traded on one or more established securities markets, as described in Reg. section 1.1472-1(c)(1)(i)
- E—A corporation that is a member of the same expanded affiliated group as a corporation described in Reg. section 1.1472-1(c)(1)(i)
- F—A dealer in securities, commodities, or derivative financial instruments (including notional principal contracts, futures, forwards, and options) that is registered as such under the laws of the United States or any state

G—A real estate investment trust

H—A regulated investment company as defined in section 851 or an entity registered at all times during the tax year under the Investment Company Act of 1940

I—A common trust fund as defined in section 584(a)

J—A bank as defined in section 581

K—A broker

L—A trust exempt from tax under section 664 or described in section 4947(a)(1)

M—A tax exempt trust under a section 403(b) plan or section 457(g) plan

Part I. Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. If you are a resident alien and you do not have and are not eligible to get an SSN, your TIN is your IRS individual taxpayer identification number (ITIN). Enter it in the social security number box. If you do not have an ITIN, see *How to get a TIN* below.

If you are a sole proprietor and you have an EIN, you may enter either your SSN or EIN. However, the IRS prefers that you use your SSN.

If you are a single-member LLC that is disregarded as an entity separate from its owner (see *Limited Liability Company (LLC)* on page 2), enter the owner's SSN (or EIN, if the owner has one). Do not enter the disregarded entity's EIN. If the LLC is classified as a corporation or partnership, enter the entity's EIN.

Note. See the chart on page 4 for further clarification of name and TIN combinations.

How to get a TIN. If you do not have a TIN, apply for one immediately. To apply for an SSN, get Form SS-5, Application for a Social Security Card, from your local Social Security Administration office or get this form online at www.ssa.gov. You may also get this form by calling 1-800-772-1213. Use Form W-7, Application for IRS Individual Taxpayer Identification Number, to apply for an ITIN, or Form SS-4, Application for Employer Identification Number, to apply for an EIN. You can apply for an EIN online by accessing the IRS website at www.irs.gov/businesses and clicking on Employer Identification Number (EIN) under Starting a Business. You can get Forms W-7 and SS-4 from the IRS by visiting IRS.gov or by calling 1-800-TAX-FORM (1-800-829-3676).

If you are asked to complete Form W-9 but do not have a TIN, apply for a TIN and write "Applied For" in the space for the TIN, sign and date the form, and give it to the requester. For interest and dividend payments, and certain payments made with respect to readily tradable instruments, generally you will have 60 days to get a TIN and give it to the requester before you are subject to backup withholding on payments. The 60-day rule does not apply to other types of payments. You will be subject to backup withholding on all such payments until you provide your TIN to the requester.

Note. Entering "Applied For" means that you have already applied for a TIN or that you intend to apply for one soon.

Caution: A disregarded U.S. entity that has a foreign owner must use the appropriate Form W-8.

Part II. Certification

To establish to the withholding agent that you are a U.S. person, or resident alien, sign Form W-9. You may be requested to sign by the withholding agent even if items 1, 4, or 5 below indicate otherwise.

For a joint account, only the person whose TIN is shown in Part I should sign (when required). In the case of a disregarded entity, the person identified on the "Name" line must sign. Exempt payees, see *Exempt payee code* earlier.

Signature requirements. Complete the certification as indicated in items 1 through 5 below.

1. Interest, dividend, and barter exchange accounts opened before 1984 and broker accounts considered active during 1983. You must give your correct TIN, but you do not have to sign the certification.

2. Interest, dividend, broker, and barter exchange accounts opened after 1983 and broker accounts considered inactive during 1983. You must sign the certification or backup withholding will apply. If you are subject to backup withholding and you are merely providing your correct TIN to the requester, you must cross out item 2 in the certification before signing the form.

3. Real estate transactions. You must sign the certification. You may cross out item 2 of the certification.

4. Other payments. You must give your correct TIN, but you do not have to sign the certification unless you have been notified that you have previously given an incorrect TIN. "Other payments" include payments made in the course of the requester's trade or business for rents, royalties, goods (other than bills for merchandise), medical and health care services (including payments to corporations), payments to a nonemployee for services, payments made in settlement of payment card and third party network transactions, payments to certain fishing boat crew members and fishermen, and gross proceeds paid to attorneys (including payments to corporations).

5. Mortgage interest paid by you, acquisition or abandonment of secured property, cancellation of debt, qualified tuition program payments (under section 529), IRA, Coverdell ESA, Archer MSA or HSA contributions or distributions, and pension distributions. You must give your correct TIN, but you do not have to sign the certification.

What Name and Number To Give the Requester

For this type of account:	Give name and SSN of:
1. Individual	The individual
2. Two or more individuals (joint account)	The actual owner of the account or, if combined funds, the first individual on the account ¹
3. Custodian account of a minor (Uniform Gift to Minors Act)	The minor ²
4. a. The usual revocable savings trust (grantor is also trustee) b. So-called trust account that is not a legal or valid trust under state law	The grantor-trustee ³ The actual owner ¹
5. Sole proprietorship or disregarded entity owned by an individual	The owner ³
6. Grantor trust filing under Optional Form 1099 Filing Method 1 (see Regulation section 1.671-4(b)(2)(i)(A))	The grantor ⁴
For this type of account:	Give name and EIN of:
7. Disregarded entity not owned by an individual	The owner
8. A valid trust, estate, or pension trust	Legal entity ⁴
9. Corporation or LLC electing corporate status on Form 8832 or Form 2553	The corporation
10. Association, club, religious, charitable, educational, or other tax-exempt organization	The organization
11. Partnership or multi-member LLC	The partnership
12. A broker or registered nominee	The broker or nominee
13. Account with the Department of Agriculture in the name of a public entity (such as a state or local government, school district, or prison) that receives agricultural program payments	The public entity
14. Grantor trust filing under the Form 1041 Filing Method or the Optional Form 1099 Filing Method 2 (see Regulation section 1.671-4(b)(2)(i)(B))	The trust

¹ List first and circle the name of the person whose number you furnish. If only one person on a joint account has an SSN, that person's number must be furnished.

² Circle the minor's name and furnish the minor's SSN.

³ You must show your individual name and you may also enter your business or "DBA" name on the "Business name/disregarded entity" name line. You may use either your SSN or EIN (if you have one), but the IRS encourages you to use your SSN.

⁴ List first and circle the name of the trust, estate, or pension trust. (Do not furnish the TIN of the personal representative or trustee unless the legal entity itself is not designated in the account title.) Also see *Special rules for partnerships* on page 1.

*Note. Grantor also must provide a Form W-9 to trustee of trust.

Note. If no name is circled when more than one name is listed, the number will be considered to be that of the first name listed.

Secure Your Tax Records from Identity Theft

Identity theft occurs when someone uses your personal information such as your name, social security number (SSN), or other identifying information, without your permission, to commit fraud or other crimes. An identity thief may use your SSN to get a job or may file a tax return using your SSN to receive a refund.

To reduce your risk:

- Protect your SSN,
- Ensure your employer is protecting your SSN, and
- Be careful when choosing a tax preparer.

If your tax records are affected by identity theft and you receive a notice from the IRS, respond right away to the name and phone number printed on the IRS notice or letter.

If your tax records are not currently affected by identity theft but you think you are at risk due to a lost or stolen purse or wallet, questionable credit card activity or credit report, contact the IRS Identity Theft Hotline at 1-800-908-4490 or submit Form 14039.

For more information, see Publication 4535, Identity Theft Prevention and Victim Assistance.

Victims of identity theft who are experiencing economic harm or a system problem, or are seeking help in resolving tax problems that have not been resolved through normal channels, may be eligible for Taxpayer Advocate Service (TAS) assistance. You can reach TAS by calling the TAS toll-free case intake line at 1-877-777-4778 or TTY/TDD 1-800-829-4059.

Protect yourself from suspicious emails or phishing schemes. Phishing is the creation and use of email and websites designed to mimic legitimate business emails and websites. The most common act is sending an email to a user falsely claiming to be an established legitimate enterprise in an attempt to scam the user into surrendering private information that will be used for identity theft.

The IRS does not initiate contacts with taxpayers via emails. Also, the IRS does not request personal detailed information through email or ask taxpayers for the PIN numbers, passwords, or similar secret access information for their credit card, bank, or other financial accounts.

If you receive an unsolicited email claiming to be from the IRS, forward this message to phishing@irs.gov. You may also report misuse of the IRS name, logo, or other IRS property to the Treasury Inspector General for Tax Administration at 1-800-366-4484. You can forward suspicious emails to the Federal Trade Commission at: spam@uce.gov or contact them at www.ftc.gov/idtheft or 1-877-IDTHEFT (1-877-438-4338).

Visit IRS.gov to learn more about identity theft and how to reduce your risk.

Privacy Act Notice

Section 6109 of the Internal Revenue Code requires you to provide your correct TIN to persons (including federal agencies) who are required to file information returns with the IRS to report interest, dividends, or certain other income paid to you; mortgage interest you paid; the acquisition or abandonment of secured property; the cancellation of debt; or contributions you made to an IRA, Archer MSA, or HSA. The person collecting this form uses the information on the form to file information returns with the IRS, reporting the above information. Routine uses of this information include giving it to the Department of Justice for civil and criminal litigation and to cities, states, the District of Columbia, and U.S. commonwealths and possessions for use in administering their laws. The information also may be disclosed to other countries under a treaty, to federal and state agencies to enforce civil and criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism. You must provide your TIN whether or not you are required to file a tax return. Under section 3406, payers must generally withhold a percentage of taxable interest, dividend, and certain other payments to a payee who does not give a TIN to the payer. Certain penalties may also apply for providing false or fraudulent information.